

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

JESÚS M. RIVERA-ARVELO,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO,
et al.,

Defendants.

Civil No. 09-1045 (JAF)

OPINION AND ORDER

Plaintiff, Jesús Rivera-Arvelo, brings this action against Defendants, the Commonwealth of Puerto Rico; Puerto Rico Secretary of Justice Antonio Sagardía-de-Jesús; Assistant Solicitor General Minnie Rodríguez; the Supreme Court of Puerto Rico; Chief Justice Federico Hernández-Denton; Associate Justices Efraín Rivera-Pérez, Liana Fiol-Matta, and Annabelle Rodríguez-Rodríguez (collectively, the "Supreme Court"); the Committee on Character of the Practice of Law; Commissioners Doel Quiñones, Carlos Dávila, Robert Stohlberg, and Waleska Delgado; and Committee attorney Alcides Oquendo-Solis (collectively, the "Committee"), under 42 U.S.C. § 1983 and Puerto Rico law. (Docket No. 39.) Plaintiff seeks monetary and injunctive relief for alleged constitutional violations arising from his suspension from the practice of law and subsequent unsuccessful

1 Civil No. 09-1045 (JAF)

-2-

2 petitions for reinstatement. (Id.) Sagardía-de-Jesús, Rodríguez, and
3 the Commonwealth move to dismiss pursuant to Federal Rules of Civil
4 Procedure 12(b)(1) and 12(b)(6). (Docket No. 40). The Supreme Court
5 and the Committee move to dismiss pursuant to the same rules.
(Docket No. 47.) Plaintiff opposes. (Docket No. 49.)

6 **I.**7 **Factual and Procedural Synopsis**

8 We derive the following relevant facts from Plaintiff's second
9 amended complaint. (Docket No. 39.) As we must, we assume all
10 Plaintiff's allegations are true and make all reasonable inferences
11 in his favor. Alternative Energy, Inc. v. St. Paul Fire & Marine
12 Ins., Co., 267 F.3d 30, 36 (1st Cir. 2001).

13 Plaintiff was admitted to the practice of law in Puerto Rico in
14 1975. The Supreme Court indefinitely suspended Plaintiff from
15 practice on March 4, 1993. On at least two occasions, in 2002 and
16 2005, Plaintiff petitioned the Committee and the Supreme Court for
17 reinstatement, proffering evidence that he has been rehabilitated and
18 is fit to resume practice. In May 2002, the Committee held a hearing
19 on one of Plaintiff's petitions. The Committee took evidence and
20 heard testimony, but allegedly limited Plaintiff's ability to cross-
21 examine witnesses. The Committee held another hearing between
22 September 20 and November 8, 2005. Plaintiff proffered professional
23 references and character evidence demonstrating his fitness to

1 Civil No. 09-1045 (JAF)

-3-

2 practice law. All of Plaintiff's petitions have been denied by the
3 Committee and/or the Supreme Court. Plaintiff remains suspended to
date.4 Plaintiff filed the present action in federal district court on
5 January 15, 2009 (Docket No. 2), and filed an amended complaint on
6 May 11, 2009 (Docket No. 39). The Commonwealth, Sagardía-de-Jesús,
7 and Rodríguez moved to dismiss the amended complaint on May 21, 2009
8 (Docket No. 40), and the Supreme Court and the Committee moved to
9 dismiss the amended complaint on May 27, 2009 (Docket No. 47).
10 Plaintiff opposed these motions on June 9, 2009. (Docket No. 49).11 **II.**12 **Standards**13 **A. Rule 12(b) (1)**14 Under Rule 12(b) (1), a defendant may move to dismiss an action
15 against him for lack of federal subject matter jurisdiction. See Fed.
16 R. Civ. P. 12(b) (1). The party asserting jurisdiction has the burden
17 of demonstrating its existence. See Skwira v. United States, 344 F.3d
18 64, 71 (1st Cir. 2003) (citing Murphy v. United States, 45 F.3d 520,
19 522 (1st Cir. 1995)).20 Rule 12(b) (1) is a "large umbrella, overspreading a variety of
21 different types of challenges to subject-matter jurisdiction."
22 Valentin v. Hosp. Bella Vista, 254 F.3d 358, 362-63 (1st Cir. 2001).
23 A movant may base a challenge to the sufficiency of the plaintiff's

Civil No. 09-1045 (JAF)

-4-

1 assertion of subject matter jurisdiction solely on the pleadings.
2 Id. at 363. In that case, we take the plaintiff's "jurisdictionally-
3 significant facts as true" and "assess whether the plaintiff has
4 propounded an adequate basis for subject-matter jurisdiction." Id. at
5 363; see Pejepscot Indus. Park, Inc. v. Maine Cent. R.R. Co., 215
6 F.3d 195, 197 (1st Cir. 2000).

7 **B. Rule 12(b) (6)**

8 A defendant may also move to dismiss an action against him,
9 based solely on the complaint, for the plaintiff's "failure to state
10 a claim upon which relief can be granted." Fed. R. Civ. P. 12(b) (6).
11 In assessing this motion, we "accept[] all well-pleaded facts as
12 true, and we draw all reasonable inferences in favor of the
13 [plaintiff]." Wash. Legal Found. v. Mass. Bar Found., 993 F.2d 962,
14 971 (1st Cir. 1993). However, mere legal conclusions "are not
15 entitled to the assumption of truth." Ashcroft v. Iqbal, 556 U.S. __,
16 129 S. Ct. 1937, 1950 (2009).

17 The complaint must demonstrate "a plausible entitlement to
18 relief" by alleging facts that directly or inferentially support each
19 material element of some legal claim. Gagliardi v. Sullivan, 513 F.3d
20 301, 305 (1st Cir. 2008) (quoting Bell Atl. Corp. v. Twombly, 550
21 U.S. 544, 559 (2007)). "Specific facts are not necessary; the
22 statement need only give the defendant fair notice of what the . . .
23 claim is and the grounds upon which it rests." Erickson v. Pardus,

Civil No. 09-1045 (JAF)

-5-

1 551 U.S. 89, 93 (2007) (quoting Twombly, 550 U.S. at 559) (internal
2 quotation marks omitted).

3 **III.**

4 **Analysis**

5 **A. Subject Matter Jurisdiction**

6 **1. Eleventh Amendment Immunity**

7 Under the Eleventh Amendment, "an unconsenting State is immune
8 from federal-court suits brought by its own citizens as well as by
9 citizens of another State." Edelman v. Jordan, 415 U.S. 651, 663
10 (1974). "For Eleventh Amendment purposes, the Commonwealth is treated
11 as if it were a state; consequently, the Eleventh Amendment bars any
12 suit brought against it." Gotay-Sánchez v. Pereira, 343 F. Supp. 2d
13 65, 71-72 (D.P.R. 2004) (citing Metcalf & Eddy, Inc. v. P.R. Aqueduct
14 & Sewer Auth., 991 F.2d 935 (1st Cir. 1993)). As the Commonwealth has
15 not consented to litigation in this case, we have no power to hear
16 Plaintiff's case against it.

17 **2. Rooker-Feldman**

18 Defendants assert that the Rooker-Feldman doctrine precludes our
19 exercise of subject matter jurisdiction over Plaintiff's claims,
20 because they amount to an impermissible appeal from a state-court
21 judgment. (Docket Nos. 40, 47.) Plaintiff claims he does not seek
22 review of a state-court judgment but, instead, brings a general
23 constitutional challenge to the relevant bar rules. (Docket No. 39.)

Civil No. 09-1045 (JAF)

-6-

Under the Rooker-Feldman doctrine, federal district courts lack jurisdiction to hear appeals from state-court judgments. D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923).¹ District courts also lack jurisdiction over constitutional claims that "are inextricably intertwined with the state court's denial in a judicial proceeding" because in such cases "the district court is in essence being called upon to review the state-court decision." Feldman, 460 U.S. at 483 n.16; accord Wilson v. Shumway, 264 F.3d 120, 124 (1st Cir. 2001). A federal constitutional challenge is "inextricably intertwined" with a state-court judgment "'if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it.'" Sheehan v. Marr, 207 F.3d 35, 40 (1st Cir. 2000) (quoting Hill v. Town of Conway, 193 F.3d 33, 39 (1st Cir. 1999)). However, Rooker-Feldman does not bar "general challenges to state bar rules, promulgated by state courts in non-judicial proceedings, which do not require review of a final state-court judgment." Feldman, 460 U.S. at 486.

Insofar as Plaintiff argues that the Committee and the Supreme Court were arbitrary, biased, or simply wrong in their decisions to suspend him and to deny his petitions for reinstatement, we lack subject matter jurisdiction under Rooker-Feldman to consider these

¹ A petitioner seeking review of a final judgment of the Puerto Rico Supreme Court should apply for a writ of certiorari from the Supreme Court of the United States, not from a federal district court. See 28 U.S.C. § 1258.

Civil No. 09-1045 (JAF)

-7-

1 claims as they amount to appellate review of the Supreme Court's
2 decisions. Plaintiff's request that we find constitutional violations
3 in the Supreme Court's and the Committee's actions or omissions is
4 similarly outside our jurisdiction because those claims are
5 inextricably intertwined with review of the state-court judgment.
6 (See Docket No. 39.) We would not be able to find a constitutional
7 defect without ruling that the Supreme Court was wrong in reaching
8 the contested decisions. Cf. Rosenfeld v. Egy, 346 F.3d 11, 19 (1st
9 Cir. 2003) (finding constitutional claims "inextricably intertwined"
10 with the state-court judgment because plaintiff would not have raised
11 them had the contested order not been issued).

12 Plaintiff attempts to characterize his claims as prospective,
13 general constitutional challenges to the rules governing petitions
14 for reinstatement. (See Docket No. 43.) Such claims would be within
15 the scope of our jurisdiction. See Feldman, 460 U.S. at 486. After
16 careful review of Plaintiff's second amended complaint, however, we
17 are unpersuaded that he has brought such claims. (See Docket No. 39.)
18 The vast majority of the complaint focuses on the merits of
19 Plaintiff's suspension and the Supreme Court's decisions denying his
20 petitions for reinstatement. (See id.) Plaintiff alleges that the
21 decisions were arbitrary and inconsistent with the law, that the
22 Supreme Court justices were biased and discriminatory, and that the
23 procedures available to him were flawed. (Id.) Plaintiff points to no

Civil No. 09-1045 (JAF)

-8-

1 policy or rule that he finds to be constitutionally defective. (Id.)
2 Reading the complaint liberally, Plaintiff instead seems to assert
3 that the lack of rules barring the Supreme Court's alleged errors and
4 misconduct is unconstitutional, yet even these allegations are
5 couched in references to the specific circumstances of his case.
6 (See id.) Furthermore, Plaintiff largely seeks retrospective relief
7 focused on the alleged continuing injuries caused by the Supreme
8 Court's decisions; he adds to this a request for "prospective"
9 declaratory relief "directed toward the rules and procedures for
10 considering future petitions for reinstatement." (Id.) Plaintiff
11 fails in his attempt to carve out his claims from Rooker-Feldman by
12 adding cursory allegations and a formulaic request for relief. Cf.
13 Wilson, 264 F.3d at 125-26 (finding plaintiff failed to bring a
14 general constitutional challenge sufficient to avoid Rooker-Feldman
15 bar where he alleged only facts relative to his individual situation,
16 sought relief that would only impact himself, and failed to reference
17 the defective regulation). We, therefore, lack subject matter
18 jurisdiction over Plaintiff's claims.

19 **B. Failure to State a Claim**

20 We find, in addition, that Plaintiff has failed to state a claim
21 against Sagardía-de-Jesús and Rodríguez. Under § 1983, a defendant
22 may be held liable for depriving a citizen of his constitutional
23 rights under color of territorial law. 42 U.S.C. § 1983. A defendant

Civil No. 09-1045 (JAF)

-9-

1 may not be held liable on a theory of respondeat superior or for
2 merely negligent omissions. See Febus-Rodríguez v. Betancourt-Lebrón,
3 14 F.3d 87, 91-92 (1st Cir. 1994). Plaintiff alleges only that
4 Sagardía-de-Jesús, as the Secretary of Justice, represents the
5 Commonwealth and, thus, "ratifies" the supposed wrongdoing of the
6 Supreme Court and that Rodríguez, as Assistant Solicitor General,
7 failed to "prevent the illegal conducts [sic] of the [Committee]." (Id.)
8 These allegations fail to demonstrate Sagardía-de-Jesús and
9 Rodríguez' liability under § 1983.

10 **C. Supplemental Jurisdiction**

11 Absent a federal question in this case, we decline to exercise
12 supplemental jurisdiction over Plaintiff's Puerto Rico law claims.

13 **IV.**

14 **Conclusion**

15 Accordingly, we hereby **GRANT** Defendants' motions to dismiss
16 (Docket Nos. 40, 47). We **DISMISS** Plaintiff's claims against the
17 Puerto Rico Supreme Court and the Committee **WITHOUT PREJUDICE** to
18 pursuit of relief in the Supreme Court of the United States if still
19 timely, **DISMISS** his claims against Sagardía-de-Jesús, Rodríguez, and
20 the Commonwealth **WITH PREJUDICE**, and **DECLINE** to exercise jurisdiction
21 on his Puerto Rico law claims based on supplemental jurisdiction

Civil No. 09-1045 (JAF)

-10-

1 grounds. We **DENY** Defendants' prior motions to dismiss (Docket
2 Nos. 15, 27) as **MOOT**.

3 **IT IS SO ORDERED.**

4 San Juan, Puerto Rico, this 12th day of June, 2009.

5 S/José Antonio Fusté
6 JOSE ANTONIO FUSTE
7 Chief U.S. District Judge